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14 NOV 2006

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| In re Application of | : | |
| Rueck | : | |
| Application No.: 10/527,906 | : | DECISION |
| PCT No.: PCT/EP03/50335 | : | |
| Int. Filing Date: 25 July 2003 | : | ON |
| Earliest Priority Date: 13 September 2002 | : | |
| Attorney Docket No.: 20030020-2 | : | PETITION |
| For: Multi-Signal Determination Of | : | |
| Polarization Dependent Characteristic | : | |

The petition to revive under 37 CFR 1.137(b) filed 18 August 2006 in the above-captioned application is hereby **DISMISSED**, without prejudice, as follows.

This international application became abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 08 August 2005. A Notification of Abandonment (Form PCT/DO/EO/909) was mailed on 20 July 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c). The instant petition lacks item(s) (1).

The required reply to the Notification of Missing Requirements mailed on 08 August 2005 was an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h). The surcharge has been paid. However, the declaration filed on 18 August 2006 does not comply with 37 CFR 1.497(a) and (b) because the name of the second inventor nominated by the declaration (Hans-Joerg HAISCH) differs from that of the second inventor nominated by the published international application (Hansjoerg HAISCH). Since this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. See MPEP § 605.04(b) and MPEP § 201.03(b). Since the declaration as filed is not compliant with 37 CFR 1.497(a) and (b), it would not be appropriate to consider requirement (1) of 37 CFR 1.137(b) to have been satisfied at this time.

With regard to requirement (3), the petition states that "The entire delay in filing a response to the Notice to File Missing Requirement mailed on 8 August 2005 for this application was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and

Trademark Office if such an interpretation of the statement in the petition is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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